

BEFORE THE COMMISSION FOR COMMON-INTEREST
COMMUNITIES AND CONDOMINIUM HOTELS
STATE OF NEVADA

JOSEPH (J.D.) DECKER, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Petitioner,

vs.

LESLIE WHITE,

Respondent.

Case No. 2014-1494

FILED

JUL 31 2015 

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

COMPLAINT FOR DISCIPLINARY
ACTION AND NOTICE OF HEARING

The Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division"), by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Michelle D. Briggs, Esq., Senior Deputy Attorney General, hereby notifies Respondent Leslie White ("RESPONDENT" or "WHITE") of an administrative hearing before the Commission for Common-Interest Communities and Condominium Hotels, State of Nevada, which is to be held pursuant to Chapters 233B and Chapters 116 and 116A of the Nevada Revised Statutes ("NRS") and Chapter 116 and 116A of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated below and to determine if an administrative penalty will be imposed on the RESPONDENT pursuant to the provisions of NRS and NAC including, but not limited to, NAC 116A.360.

///

///

///

///

JURISDICTION

1
2 1. During all relevant times mentioned in this complaint, WHITE was licensed as a
3 community manager by the Division and is, therefore, subject to the jurisdiction of the
4 Division and the provisions of NRS Chapters 116 and 116A and NAC Chapters 116 and
5 116A.

ALLEGATIONS OF FACT

6
7 2. At all relevant times mentioned in this complaint, WHITE was and is currently
8 licensed as a supervisory community manager under certificate number CAM.0000070.

9 3. At all relevant times mentioned in this complaint, WHITE acted as and is
10 currently performing the services of a community manager for La Siena Association (the
11 "Association") through her entity NCF Corporation, doing business as Associated Community
12 Management (the "Management Company").

13 4. The Division opened an investigation against WHITE and her daughter, Audra
14 Collins, in 2013 under Case No. CIS 13-05-34-340 based on information contained in annual
15 registration forms supplied by WHITE and Ms. Collins to the Division.

16 5. The initial investigation concerned 21 associations managed by WHITE, not
17 including La Siena Association.

18 6. The initial investigation concerned whether the associations had board
19 members.

20 7. After not receiving an adequate response to the investigation from WHITE or
21 Ms. Collins, the Division subpoenaed bank records for certain associations as well as
22 WHITE'S management company in January 2014.

23 8. Based on a review of the subpoenaed bank records, the Division opened an
24 investigation concerning La Siena Association (the "Association") under Case No. 2014-1494
25 and subpoenaed bank records for the Association.

26 9. The Association was formed in 2002, but was not registered with the Division
27 until 2011.

28 10. The Division subpoenaed Association bank records for 2012 through March of

1 2014.

2 11. All but three checks received by the Division were solely signed by either
3 WHITE or Ms. Collins, and one check contained no signatures.

4 12. The check with no signatures (Check No. 796) was paid to the Management
5 Company for \$1,100.

6 13. The two checks reflecting a second signature were paid to the Division for
7 annual registration fees:

8 a. Check No. 681 dated November 1, 2012 payable to the Division appears to
9 be signed by board member Nancy Houston and Audra Collins; and

10 b. Check No. 788 dated November 26, 2013 payable to the Division appears to
11 be signed by board member Jaime Rose and WHITE.

12 14. Both checks were submitted to the Division with annual registration forms
13 signed by WHITE.

14 15. WHITE was noticed of this matter by letter dated May 6, 2014 which alleged
15 WHITE was the sole signor on Association checks. The letter requested copies of WHITE'S
16 three most recent management contracts, documents, including minutes, from the last three
17 board elections, and copies of Association CC&R's and bylaws.

18 16. Ms. Collins was also noticed of an investigation for her involvement with the
19 Association.

20 17. WHITE responded by email dated June 6, 2014, which included as
21 attachments, her sworn affidavit dated June 6, 2014, certain election documents, her
22 management contract dated July 1, 2012, and her management contract dated July 1, 2005.

23 18. WHITE'S explanation for the single signed checks was an electronic signature
24 error, but WHITE provided no evidence that any board member approved any of the sole
25 signed checks.

26 19. According to the Association's bank, Mutual of Omaha Bank, all of WHITE'S
27 associations use a master signature card for the Management Company that goes with all of
28 their accounts.

1 20. The master signature card for the Management Company shows WHITE as the
2 only authorized signor.

3 21. The Division contacted board members reflected in registration forms for more
4 information about the Association's activities.

5 22. Board members, Nancy Houston and Jaime Rose, deny having signed the two
6 Association checks reflecting their names.

7 23. WHITE'S 2005 contract, missing page 2, expired on its terms in July of 2007
8 and included a monthly fee of \$800.

9 24. WHITE'S 2012 contract dated July 1, 2012 is for a 1 year term, renews on a
10 month to month basis indefinitely, and includes a monthly fee of \$1,000.

11 25. WHITE received from the Association more than \$1,000 for all but one month
12 from January 2012 through March of 2014, including payments of over \$3,800 in August of
13 2012, over \$4,000 in October of 2012, over \$3,700 in January of 2013, over \$6,700 in April of
14 2013, and over \$6,000 in June of 2013.

15 26. WHITE'S 2012 contract appears to be signed by board member, Jaime Rose.

16 27. Jaime Rose informed the Division that the 2012 contract was not signed by her,
17 noting that her name is signed as *Jane Rose*.

18 28. During the investigation, Ms. Collins provided two additional checks to the
19 Division to show that the Association's checks were being properly co-signed by a board
20 member along with WHITE:

21 a. Check No. 818 dated June 17, 2014 payable to A&M Sweeping contains
22 WHITE'S signature, along with an unknown, illegible second signature; and

23 b. Check No. 819 dated June 23, 2014 payable to Las Vegas Valley Water Dist.
24 contains WHITE'S signature, along with an unknown, illegible second signature.

25 29. When asked by the Division to identify the unknown, illegible second signature,
26 neither WHITE nor Ms. Collins could identify who signed the two additional checks provided
27 by Ms. Collins. Both of them stated by sworn affidavit, "I lack information sufficient to form a
28 belief to respond to the Division's request."

31. The insurance certificates reflect *condominium* insurance coverage, but the Association consists of 92 single family homes, private streets, and landscaping.

32. WHITE is the sole signor on approximately 150 checks from the Association's bank account from January 2012 through the early part of January 2014; of which 80 checks were payable to the Management Company.

7 33. According to bank records, beginning in January 2014, money was taken from
8 the Association's bank account by direct transfers to the Management Company 11 times in
9 three months, totaling approximately \$10,695.

0 34. From January of 2012 to March 2014, there were approximately 202 checks
1 issued by the Association; approximately 104 of those checks were made payable to the
2 Management Company.

3 35. From January 2012 to March 2014, the Management Company received
4 approximately \$80,000 from the Association.

5	<u>VIOLATIONS OF LAW</u>
---	--------------------------

36. WHITE violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(c)) by committing unprofessional conduct by engaging in deceitful, fraudulent or dishonest conduct by signing checks to the Management Company for charges that were not approved by the Association's board and for charges not authorized by a management agreement.

0 37. WHITE violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(c)) by
1 committing unprofessional conduct by engaging in deceitful, fraudulent or dishonest conduct
2 by submitting checks to the Division for registration fees reflecting a board member's name,
3 when the checks were not actually signed or authorized by the board member.

38. WHITE violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(c)) by committing unprofessional conduct by engaging in deceitful, fraudulent or dishonest conduct by submitting a forged management contract to the Division as if it were signed by a board member and approved by the Association.

8 39. WHITE violated NAC 116A.345(2)(b) by impeding or otherwise interfering with

1 an investigation of the Division by supplying false or misleading information to an investigator
2 when she provided a forged management contract to the Division.

3 40. WHITE violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(c)) by
4 committing unprofessional conduct by engaging in deceitful, fraudulent or dishonest conduct
5 by receiving in excess of \$10,000 from the Association by way of automatic transfers 11
6 times in three months, January through March 2014.

7 41. WHITE violated NAC 116A.355(1)(a)(2) (through NAC 116A.355(3)(b)) by
8 engaging in conduct constituting professional incompetence by failing to exercise reasonable
9 skill and care with respect to a duty or obligation owed to the Association by receiving in
10 excess of \$10,000 from the Association by way of automatic transfers 11 times in three
11 months, January through March 2014.

12 42. WHITE violated NAC 116A.355(1)(a)(2) (through NAC 116A.355(3)(a)) by
13 engaging in conduct constituting professional incompetence by demonstrating a significant
14 lack of ability, knowledge or fitness to perform a duty or obligation owed to the Association by
15 receiving in excess of \$10,000 from the Association by way of automatic transfers 11 times in
16 three months, January through March 2014.

17 43. WHITE violated NAC 116A.355(1)(a)(2) (through NAC 116A.355(3)(b)) by
18 engaging in conduct constituting professional incompetence by failing to exercise reasonable
19 skill and care with respect to a duty or obligation owed to the Association by signing checks
20 to the Management Company for unauthorized charges.

21 44. WHITE violated NAC 116A.355(1)(a)(2) (through NAC 116A.355(3)(a))
22 approximately 150 times by engaging in conduct constituting professional incompetence by
23 demonstrating a significant lack of ability, knowledge or fitness to perform a duty or obligation
24 owed to the Association by signing checks without approval from the Association's board.

25 45. WHITE violated NAC 116A.355(1)(a)(2) (through NAC 116A.355(4)(g)) by
26 engaging in conduct constituting professional incompetence by failing to act in the best
27 interests of the Association.

28 46. WHITE violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(i))

1 approximately 150 times by committing unprofessional conduct by exceeding the authority
2 granted to her by the Association when she signed approximately 150 Association checks
3 without approval from the Association's board.

4 47. WHITE violated NRS 116.31153 approximately 150 times by being the sole
5 signor on approximately 150 Association checks between January 2012 and January 2014.

6 48. WHITE violated NRS 116A.620 and NAC 116A.325 by managing the
7 Association without a valid management contract.

8 49. WHITE violated NRS 116A.630(1)(a) by failing to act as a fiduciary in her
9 relationship with the Association.

10 50. WHITE violated NRS 116A.640(10) by signing checks in favor of the
11 Management Company for fees or other charges not specified in a management agreement.

12 51. WHITE violated NRS 116A.630(1)(b) by failing to exercise ordinary and
13 reasonable care in the performance of her duties for the Association.

14 52. WHITE violated NRS 116A.630(2) by failing to comply with all federal, state and
15 local laws, regulations and ordinances.

16 53. WHITE violated NRS 116A.630(6)(a) by failing to ensure that the financial
17 transactions of the Association are current, accurate and properly documented.

18 54. WHITE violated NRS 116A.630(6)(b) by failing to ensure that there are policies
19 and procedures designed to provide reasonable assurances in the reliability of the financial
20 reporting.

21 55. WHITE violated NRS 116A.630(13) by failing to maintain the Association's
22 funds in separate financial accounts in the name of the Association and ensure that the
23 Association is authorized to have direct access to those accounts.

24 56. WHITE violated NRS 116A.630(14) by failing to notify unit owners that the
25 board is aware of all legal requirements pursuant to the applicable laws and regulations.

26 57. WHITE violated NRS 116A.630(15) by failing to maintain internal accounting
27 controls, including without limitation, segregation of incompatible accounting functions.

28 58. WHITE violated NRS 116A.630(16) by failing to ensure that the executive board

developed and approved written investment policies and procedures.

59. WHITE violated NAC 116A.320 by failing to comply with NRS 116A.630.

DISCIPLINE AUTHORIZED

Pursuant to the provisions of NAC 116A.360 the Commission has discretion to impose discipline as it deems appropriate, including, but not limited to one or more of the following actions:

1. Revoke or suspend the certificate;
2. Refuse to renew or reinstate the certificate;
3. Place the community manager on probation;
4. Issue a reprimand or censure to the community manager;
5. Impose a fine of not more than \$5,000 for each violation of a statute or regulation;
6. Require the community manager to pay restitution;
7. Require the community manager to pay the costs of the investigation and hearing;
8. Require the community manager to obtain additional education relating to the management of common-interest communities; and
9. Take such other disciplinary action as the Commission deems appropriate.

The Commission may order one or any combination of the discipline described above.

NOTICE OF HEARING

PLEASE TAKE NOTICE, that a disciplinary hearing has been set to consider this Administrative Complaint against the above-named RESPONDENT in accordance with Chapters 233B and 116 and 116A of the Nevada Revised Statutes and Chapters 116 and 116A of the Nevada Administrative Code.

THE HEARING WILL TAKE PLACE at the Commission meeting scheduled for September 22, 23, and 24, 2015, beginning at approximately 9:00 a.m. each day, or until such time as the Commission concludes its business. The Commission meeting will be held at the Grant Sawyer Building, 555 E. Washington Ave., Room 4401, Las Vegas,

1 Nevada 89101, with videoconferencing to the Legislative Building, 401 South Carson
2 Street, Room 2135, Carson City, Nevada 89701.

3 STACKED CALENDAR: Your hearing is one of several hearings that may be
4 scheduled at the same time as part of a regular meeting of the Commission that is expected
5 to take place on September 22-24, 2015. Thus, your hearing may be continued until later in
6 the day or from day to day. It is your responsibility to be present when your case is called. If
7 you are not present when your hearing is called, a default may be entered against you and
8 the Commission may decide the case as if all allegations in the complaint were true. If you
9 need to negotiate a more specific time for your hearing in advance because of coordination
10 with out of state witnesses or the like, please call Claudia Rosolen, Commission Coordinator,
11 at (702) 486-4606.

12 YOUR RIGHTS AT THE HEARING: Except as mentioned below, the hearing is an
13 open meeting under Nevada's open meeting law, and may be attended by the public. After
14 the evidence and arguments, the commission may conduct a closed meeting to discuss your
15 alleged misconduct or professional competence. A verbatim record will be made by a
16 certified court reporter. You are entitled to a copy of the transcript of the open and closed
17 portions of the meeting, although you must pay for the transcription.

18 As a RESPONDENT, you are specifically informed that you have the right to appear
19 and be heard in your defense, either personally or through your counsel of choice. At the
20 hearing, the Division has the burden of proving the allegations in the complaint and will call
21 witnesses and present evidence against you. You have the right to respond and to present
22 relevant evidence and argument on all issues involved. You have the right to call and
23 examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter
24 relevant to the issues involved.

25 You have the right to request that the Commission issue subpoenas to compel
26 witnesses to testify and/or evidence to be offered on your behalf. In making this request, you
27 may be required to demonstrate the relevance of the witness' testimony and/or evidence.
28 Other important rights and obligations, including your obligation to answer the complaint, you

1 have are listed in NAC 116A.560 through NAC 116A.655, NRS Chapter 233B, and NRS
2 Chapters 116 and 116A and NAC 116 and 116A.

3 Note that under NAC 116A.585, not less than five (5) working days before a hearing,
4 RESPONDENT must provide to the Division a copy of all reasonably available documents
5 that are reasonably anticipated to be used to support his or her position, and a list of
6 witnesses RESPONDENT intends to call at the time of the hearing. Failure to provide any
7 document or to list a witness may result in the document or witness being excluded from
8 Respondent's defense. The purpose of the hearing is to determine if the RESPONDENT has
9 violated any of the provisions of NRS and NAC Chapters 116 and 116A, and to determine
10 what administrative penalty is to be assessed against RESPONDENT, if any, pursuant to
11 NAC 116A.360.

12 DATED this 30th day of July, 2015.

13 REAL ESTATE DIVISION
14 DEPARTMENT OF BUSINESS & INDUSTRY
15 STATE OF NEVADA

16 By: 
17 JOSEPH (J.D.) DECKER, Administrator
18 2501 East Sahara Avenue
19 Las Vegas, Nevada 89104-4137
20 (702) 486-4033

21 ADAM PAUL LAXALT
22 Attorney General

23 By: 
24 MICHELLE D. BRIGGS, ESQ.
25 Senior Deputy Attorney General
26 2501 E. Sahara Avenue, Suite 201
27 Las Vegas, NV 89104
28 (702) 486-3695
Attorneys for Real Estate Division